

# **KENTUCKY COURSE 10: THE KENTUCKY PROPERTY TAX SYSTEM FIRST DAY READING ASSIGNMENT**

Rev 2/10

## **SECTION 1: TAX ADMINISTRATION**

The administration of property tax in Kentucky is primarily the responsibility of one state agency, the Department of Revenue, and 120 state offices located in each county, the Property Valuation Administrators' offices. This section explains their duties and functions.

In addition, two county officials, the county clerk and the sheriff, are greatly involved in property tax administration. The county clerk is responsible for the preparation of tax bills, the administration of the board of assessment appeals, the collection of personal property taxes on motor vehicles, and the collection of certain delinquent property tax bills. The sheriff is the collector of most property taxes.

The county judge/executive is the representative of the county taxing district and the administrator of the courthouse (and thus responsible for providing adequate office space and utilities to the PVA office). The county attorney is responsible for defending the PVA's assessments, for providing legal advice on collection procedures to the sheriff and county clerk, and has the option of contracting with the Department of Revenue to enforce the collection of delinquent real and personal property taxes.

The administrative officers or representatives of all taxing jurisdictions that levy a property tax are also involved in the operation of the property tax system, particularly in the establishment of

property tax rates. Other than the state and counties (including special districts), the major taxing jurisdictions in the state are school districts and cities.

Property owners are required by statute to provide information on their property to the PVA or the Department of Revenue and to pay the resulting tax bills in a timely manner. Property owners have the right to inspect the PVA's tax roll, to appeal the assessments placed on their property, and to take action against the setting of improper tax rates. In addition, taxpayers can join together to initiate the call for an emergency assessment to be made by the state.

#### A. Property and Property Taxation

Property can be simply defined as "anything capable of being owned." A more specific definition has been provided by the Kentucky Court of Appeals, which stated that property:

. . . as used in the Revenue Statute means everything of value that a person owns that is or may be the subject of sale or exchange or that when offered for sale will bring some price . . . . everything which is the subject of ownership, corporal real or incorporeal, tangible or intangible, visible or invisible, real or personal . . . . everything which has an exchangeable value, or which goes to make up one's wealth or estate. (Button v Drake, 1946).

KRS 133.010 states that real property:

. . . includes all lands within this state and improvements thereon.

Real property also refers to the interest, benefits, and rights inherent in the ownership of physical real estate.

KRS 133.010 states that personal property:

. . . includes every species and character of property, tangible and intangible, other than real property.

In general, personal property is movable, whereas real property is not. Tangible personal property consists of items that have value and utility in themselves, such as automobiles, construction equipment, manufacturing machinery, merchandise, livestock, and other materials and goods. Intangible personal property is property that represents evidence of value or the right to value under law and custom. Unlike tangible personal property, intangible personal property has no intrinsic value. Most intangible personal property taxes have been repealed in Kentucky as of January 1, 2006.

The property tax is an ad valorem tax, which means "according to value." Property tax is thus a tax on wealth, which can be contrasted to the other major taxes such as income, excise, and sales. The property tax is an "impersonal" tax in that the tax is against the "thing" rather than the "person" as in income tax.

The power to levy a tax is held by the state as an inherent right, but is subject to limitations by both the federal and state constitutions. The state legislature has the constitutional authority and responsibility to provide for a system of taxation:

**Ky. Constitution Section 171. State tax to be levied; taxes to be levied and collected for public purposes only and by general laws, and to be uniform within classes.** The General Assembly shall provide by law an annual tax, which, with other resources, shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year. Taxes shall be levied and collected for public purposes only and shall be uniform upon

all property of the same class subject to taxation within the territorial limits of the authority levying the tax; and all taxes shall be levied and collected by general laws . . . .

**Ky. Constitution, Section 175. Power to tax property not to be surrendered.** The power to tax property shall not be surrendered or suspended by any contract or grant to which the Commonwealth shall be a party.

The state has the power to create subordinate units of government (counties, cities, etc.), but these units have only such taxing power as are granted by the state constitution and the legislature:

**Ky. Constitution, Section 181. General Assembly may not levy tax for political subdivision, but may confer power.** The General Assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may, by general laws, confer on the proper authorities thereof, respectively, the power to assess and collect such taxes . . . .

#### B. Role of Property Tax in Funding State and Local Governments

Property taxes provide nearly \$2 billion in revenue annually for Kentucky governments and taxing districts. This revenue is used to fund services for Kentucky's citizens. The state property tax levy is approximately \$400 million. This represents less than 6% of the state general fund. The estimated contribution of property taxes to local taxing districts (school districts, cities, counties, and special taxing districts) is approximately \$1.6 billion.

### C. History of Property Tax in Kentucky

Kentucky has had a tax on property since June 1, 1792, the date the state was created. At that time property was the primary form of wealth and the foremost responsibility of state and local governments was the protection of persons and property.

Assessments were made completely at the county level by a locally appointed county tax commissioner (changed to elected in 1850). Tax bills were prepared by the county court clerk and collected by the county sheriff. Although the state auditor was responsible for ensuring that the state received its share of the collection, there was no direct authority over the local assessors from the state level.

Initially a set amount was levied against each item of taxable property. No attempt was made to base the tax on the value of the property. This was done to a certain extent in 1793 when a land classification system establishing quality classes was developed. In 1814, the standard for assessing property was changed to the ad valorem approach. Property was thereafter liable for taxes in direct proportion to its market value. The state tax rate for most property was initially set at 15¢ per \$100 of assessed value. It has since fluctuated from a low of 1½ ¢ per \$100 (1966 - 76) to a high of 55¢ per \$100 (1915 - 17).

A state board of equalization was created in 1883 in an effort to equalize assessments throughout the state. The state auditor continued to serve as the chief tax administrator for the state.

The current, and fourth, Constitution was written in 1891. Approximately 70% of all state revenue came from property taxes at this time. Although Kentucky was a predominantly rural state, the power and influence of corporate interests was increasing greatly. Politically, the corporations were opposed by "agrarians," who represented the ordinary people, particularly farmers. The resulting Constitution reflects the general suspicion and distrust held by the agrarians against big business. Only limited tax exemptions were granted by the Constitution, and the authority of the legislature in tax and other matters was greatly curtailed.

Section 171 of the Constitution was amended in 1915 to allow the General Assembly to classify property according to rate structure. This has resulted in the diverse and complicated classified tax rate structure existing at the present time.

In 1917 a state tax commission was created to oversee all state taxing functions. The authority of the state over the county tax commissioners gradually increased over the succeeding years.

During the economic depression of the 1930's, the significance of property tax as a revenue source for both state and local governments declined. The combination of relatively high tax rates and falling property values resulted in an effective tax rate of around 2%, which was one of the highest relative property tax burdens during the history of property tax in Kentucky.

The Department of Revenue was created in 1936 to administer all state taxes. Assessment/sales ratio studies were initiated in 1937 in an effort to achieve equalization.

The General Assembly met in special session in 1949 to address the administration of property tax, in particular the overall quality of assessments. The working relationship between the Department and the tax commissioners was more clearly defined, compensation for tax commissioners and deputies was increased, the job was made a full time position, and facilities were improved. Technical assistance to counties by the Department of Revenue was authorized and funding was provided to initiate mapping programs and professional reappraisals.

Although the primary responsibility for assessing property remained with the county tax commissioners, the Department of Revenue was given authority over the methods and procedures by which the tax commissioners were to operate. The Department expanded its property tax staff, prepared manuals and guidelines, started mapping and reappraisal projects, and provided direct valuation assistance to many counties.

The Department attempted in 1954 to use its supervisory powers to require inter-county equalization. This resulted in a political uproar because it appeared that large tax increases would result in many areas. The Department abandoned its efforts to enforce equalization. Programs were drastically reduced, the staff suffered heavy attrition, and the counties were allowed to revert to assessment levels far below the constitutionally mandated fair cash value.

In a landmark decision in 1965 the Kentucky Court of Appeals ruled in Russman v Lockett that the full fair cash value standard must be observed. The court directed the Department of Revenue and the county tax commissioners to raise assessment levels from the typical 15% to 40% up to fair market value.

Two amendments to the Constitution were passed in 1969 and 1971 to lessen the tax burden on certain groups of property owners. The first, the agricultural deferred value amendment (Section 172A), was designed to protect farmland from speculative value increases and urban sprawl. The second, the homestead exemption amendment to Section 170, provided partial tax relief to homeowners over 65 years of age. The homestead exemption was broadened in 1981 to include totally disabled homeowners. This classification was fairly exclusive at first, restricted to federal or railroad retirement systems, but was expanded by a 1998 amendment that allowed the exemption for persons classified as totally disabled by any retirement system.

During the late 1970's and early 1980's property values increased dramatically. Increasing values resulted in higher tax bills since very few taxing districts lowered their rates. The 1979 special session of the General Assembly enacted a tax rate rollback relief measure, known as House Bill 44.

The relationship between the PVAs and the Department of Revenue remained somewhat unclear. In 1980 a change in administration resulted in the Department attempting to exercise additional supervisory powers over the PVAs. The Department mandated that all counties be within five percent of full value as indicated by the assessment/sales ratio studies. Although this requirement was met by 103 PVAs, there was resistance from many PVAs. The Department threatened to withhold salaries to enforce compliance. A majority of PVAs filed suit in Franklin Circuit Court, contending that the Department was responsible for increasing any PVA's assessment beyond the PVA's estimation of fair cash value. The case was decided in favor of the PVAs in the lower court, but was overturned in the Supreme Court in the decision Allphin v Butler, 1981.



The Department of Revenue was changed to the Revenue Cabinet in 1982 and the Department of Property Taxation (since renamed the Office of Property Valuation) was created. The department was comprised of the Commissioner's Office plus three divisions - State Valuation, Local Valuation, and Technical Support. In 2004, the Revenue Cabinet was returned to Department status and placed under the Finance and Administration Cabinet. The Department of Property Valuation was renamed the Office of Property Valuation, headed by an Executive Director. The Office of Property Valuation is comprised of three branches: State Valuation, Local Valuation and Minerals Taxation and GIS Services.

Two highly significant Supreme Court rulings were issued in the 1980s - Dolan v. Land, in 1984, which addressed the methodology of agricultural value determination, and Yount v Gillis and Moore v Gillis in 1988, which declared the separate classification of unmined coal for property taxation to be unconstitutional.

The administration of property assessment was changed by the development of centralized assessment systems for personal property, beginning with intangible personalty in 1987, then tangible personalty in 1989, and centralized assessment/collection systems for motor vehicles in 1984 and boats in 1990. In 1989, the Franklin Circuit Court directed the Cabinet to centrally assess unmined minerals as well and, in 1994, the General Assembly codified this directive in KRS 132.820.

As a result of recommendations made in a Legislative Research Commission study authorized by the 1986 General Assembly, the 1988 General Assembly enacted significant legislation to give

the PVA office local expenditure authority, to modify the funding process, to require quadrennial physical reviews of all real property, and to place increased responsibility and authority on the Revenue Cabinet in monitoring the quality and equity of assessments.

The 1990 General Assembly, as part of the Kentucky Education Reform Act (KERA), mandated that all real property be assessed at 100 percent of fair cash value by 1994. It also continued the trend of greater state authority and responsibility in property tax administration by granting the Revenue Cabinet the ability to administratively remove a PVA from office (for cause only). This session also "tightened" deed filing requirements and provided funding to collect real property characteristics and to conduct emergency assessments. The Revenue Cabinet further received funding from the General Assembly to conduct emergency reassessment projects in 25 counties in which assessment quality had been determined to be below the constitutional standard. The 1992 and 1994 General Assemblies changed a number of technical and administrative procedures, some resulting from the recommendations made in the study authorized in the 1986 session. In 1994, in response to the legislature's KERA mandate that all property be assessed at 100% fair cash value, the Revenue Cabinet imposed an inter-county equalization increase in 13 counties.

In the 90's, two additional significant court decisions were issued - - Revenue Cabinet v. Leary, in 1994, which addressed the validity of the quadrennial review plan, and Revenue Cabinet v. Gillig, in 1998, which upheld the use of mass appraisal and confirmed that it is the taxpayer's burden to show that an assessment is too high.

D. Authority and Responsibility of the Department of Revenue

The Finance and Administration Cabinet is one of the administrative agencies of the executive branch of state government. The Department of Revenue is one of seven departments within the Finance and Administration Cabinet. The Office of Property Valuation is within the Department of Revenue. The organization and functions of the Department are specified in KRS 131.020 and 131.030:

**131.020(1) Major organizational units of the Department of Revenue - Functions and duties.**

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
  - (a) Office of the Commissioner of the Department of Revenue, to include the Division of Special Investigations, headed by a division director who shall report to the commissioner. The division shall investigate alleged violations of the tax laws and recommend criminal prosecution of the laws as warranted;
  - (b) Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;
  - (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
    1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with

- similar operational aspects as negotiated between the department and the other agency;
2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments, including protest resolution, and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
  3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
- (d) Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include:
1. Mapping;
  2. Providing assistance to property valuation administrators;
  3. Supervising the property valuation process throughout the Commonwealth;
  4. Valuing the property of public service companies;
  5. Valuing unmined coal and other mineral resources;
  6. Administering personal property taxes;
  7. Collecting delinquent taxes;
  8. Overseeing the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;
  9. Administering all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and
  10. Administering the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);
- (e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including, but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
  2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate

tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

- (f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
  - 1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
  - 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass through entity withholding, and pass-through entity reporting requirements; and
- (h) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

**131.030(1) Functions of department.**

- (1) The Department of Revenue shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the Department of Revenue may commit administration of certain taxes.

The general powers and duties of the Department of Revenue are described in KRS 131.130.

The powers and duties of the Department concerning local finance and the supervision of local officials in revenue duties are described in KRS 131.140:

**131.130 General powers and duties of department.**

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Department of Revenue:

- (1) The department may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.
- (2) The department, by representatives it appoints in writing, may take testimony or depositions, and may examine hard copy or electronic

records, any person's documents, files and equipment if those records, documents or equipment will furnish knowledge concerning any taxpayer's tax liability, when it deems this reasonably necessary to the performance of its functions. The department may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the department.

- (3) The department shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.
- (4) The department shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.
- (5) Attorneys employed by the Finance and Administration Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Finance and Administration Cabinet attorney undertakes any of the actions prescribed in this subsection, that attorney shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including the authority to sign, file, and present any complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (6) In the event of the incapacity of attorneys employed by the Finance and Administration Cabinet or at the request of the secretary of the Finance and Administration Cabinet, the Attorney General or his or her designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he or she shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

**131.140(2)(3)(4) Powers and duties of department concerning local finance - Supervision of local officials in revenue duties.**

- (2) The department may confer with, advise and direct local officials

respecting their duties relating to taxation, and shall supervise the officials in the performance of those duties. The department shall provide to the property valuation administrators up-to-date appraisal manuals outlining uniform procedures for appraising all types of real and personal property assessed by them. The property valuation administrators shall follow the uniform procedures for appraising property outlined in these manuals. The department shall maintain and make accessible to all property valuation administrators a statewide commercial real property comparative sales file. The department, by authorized agents, may visit local governmental units and officers for investigational purposes, when necessary.

- (3) The Department of Revenue shall conduct a biennial performance audit of each property valuation administrator's office. This audit shall include, but shall not be limited to, an inspection of maps and records, an appraisal study of real property, and an evaluation of the overall effectiveness of the office. Each property valuation administrator's office shall provide the department with access to its files, maps and records during the audit. The department shall prepare a report on assessment equity and quality for each county based on the performance audit, and shall provide a copy to the Legislative Research Commission.
- (4) The department shall arrange for an annual conference of the property valuation administrators . . . to give them systematic instruction in the fair and just valuation and assessment of property, and their duty in connection therewith. The conference shall continue not more than five (5) days. The officers shall attend and take part in the conference, unless prevented by illness or other reason satisfactory to the commissioner. Any officer willfully failing to attend the conference may be removed from office by the circuit court of the county where he was elected. If the officer participates in all sessions of the conference, one-half (½) of his actual and necessary expenses in attending the conference shall be paid by the state, and the other half shall be paid by the county from which he attends. Each officer shall prepare an itemized statement showing his actual and necessary expenses, and if it is found regular and supported by proper receipts it shall be approved by the department before payment.

**132.385(1)(2) Education program by Department - Certification program for administrators and others.**

- (1) The department shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and department employees. Courses may be created and taught by department personnel or the department may adopt specific courses

offered by appropriate professional organizations.

- (2) The department shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and department employees. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations, and an additional two (2) years of experience in Kentucky property tax administration. Correspondence course credit administered by the department may be substituted for no more than thirty (30) hours of the one hundred twenty (120) hours required for the "certified Kentucky assessor" (CKA) designation, and for no more than fifteen (15) hours of the additional ninety (90) hours required for the "senior Kentucky assessor" (SKA) designation.

#### E. Duties and Functions of the Property Valuation Administrator

Section 99 of the 1891 Constitution provides that an assessor shall be elected in each county; however, Section 104 authorizes the General Assembly to abolish the office of assessor and provide that another officer perform assessment functions. Consequently, in 1918 the General Assembly provided in KRS 132.370 for the election of a tax commissioner in each county (the title was changed to property valuation administrator in 1969). The result was a statutory assessment officer versus a constitutional assessor. Unlike other county officials listed in Section 99 of the Constitution, the General Assembly has complete control of the office of PVA:

#### **Ky. Constitution, Section 99. County officers.**

There shall be elected in each county a Judge of the County Court, a County Court Clerk, a County Attorney, Sheriff, Jailer, Coroner, Surveyor and Assessor, and in each Justice's District one Justice of the Peace and one Constable, who shall enter upon the discharge of the duties of their offices on the first Monday in January after their election, and who shall



hold their offices four years until the election and qualification of their successors.

**Ky. Constitution Section 104. Abolishment of Office of Assessor; Assessor may not succeed himself.**

The General Assembly may abolish the office of Assessor and provide that the assessment of property shall be made by other officers; but it shall have power to reestablish the office of Assessor and prescribe his duties. No person shall be eligible to the office of Assessor two consecutive terms.

**132.370 Property valuation administrators status as state official - Election - Qualifications - Terms - Removal - Accrued leave and compensatory time.**

- (1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.
- (2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by section 100 of the Constitution and by KRS 132.380 and shall be eligible for re-election. . . .
- (4) A property valuation administrator may be removed from office by the Circuit Court of his or her county, upon petition of any taxpayer, or by the commissioner of revenue for willful disobedience of any just or legal order of the department, or for misfeasance or malfeasance in office or willful neglect in the discharge of his or her official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and KRS 133.250, "chronic underassessment" means a widespread pattern and practice of assessing properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to KRS 133.250, or other means.
- (5) If the commissioner determines that a property valuation administrator should be removed from office, the property valuation administrator shall be notified in writing, and the notice of intent to remove shall state the specific reasons for removal. The notice shall also advise the property valuation administrator of his or her right to a preremoval conference and an administrative hearing.

- (6) A property valuation administrator may request a preremoval conference to appear with or without counsel before the commissioner or his or her designee to answer the charges against him or her. The preremoval conference shall be requested in writing within six (6) working days of the date on which the notice of intent to remove is received, and a preremoval conference shall be scheduled within seven (7) working days of the date on which the request is received. The commissioner or his or her designee shall render a decision within five (5) working days of the conclusion of the preremoval conference. Failure of a property valuation administrator to request a preremoval hearing shall not waive his or her right to contest his or her removal through an administrative hearing.
- (7) If an action to remove a property valuation administrator is initiated by the commissioner of revenue, the property valuation administrator shall have the right to appeal and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. Appeal of the final order of the commissioner of revenue may be filed in a Circuit Court of an adjacent judicial circuit in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS Chapter 18A.
- (8) If a property valuation administrator is removed from office as provided in subsections (4) to (7) of this section, he or she shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the Department of Revenue pertaining to the office.
- (9) Notwithstanding the provisions of KRS 18A.110(5)(c), the department shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

Whenever there is a vacancy in the PVA office, whether through removal or voluntary resignation, the Department must appoint a qualified employee to act as PVA until a PVA is elected (or appointed by the Governor under KRS 63.190 to serve until the next general election).

**132.375 Designation of qualified department employee to fill vacancy.**

Whenever a vacancy occurs in the property valuation administrator's office, the commissioner of revenue shall designate a qualified department

employee to carry on the duties of the office until the vacancy is filled by appointment or by election. The department employee so designated shall be compensated from Department of Revenue funds in the same manner and at the same rate as compensated prior to his receiving the designation, plus necessary expenses, including travel. The individual shall have all the powers and be subject to all the administrative regulations applying to property valuation administrators.

Candidates for the office of PVA (other than interim designees as provided in KRS 132.375) must pass an examination administered by the department:

**132.380 Examination of candidates for property valuation administrator - certificate.**

- (1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except a current property valuation administrator already qualified as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the department, showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance. The examination shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The department shall hold the examination at a central location during the month of November of each year immediately preceding each year in which property valuation administrators are to be elected. The department shall, at least thirty (30) days prior to the examination, issue a statewide press release announcing the examination and post the announcement on the department's Web site. Any person desiring to take an examination shall appear at the time and place designated.
- (2) If, after the giving of the examination, as provided in subsection (1), there is no person qualified to be a candidate in the county, the department shall hold a second examination. Applicants from only those counties having no person qualified shall be eligible to take the examination. Notice of the second examination shall be made in the manner provided in subsection (1) of this section, except that the notice shall be provided at least fourteen (14) days prior to the second examination.
- (3) If no qualified candidate files for the office, a special examination shall be given at a time determined by the department. Notice of and

registration for the special examination shall be provided in the same manner as provided in subsection (2) of this section.

- (4) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the Department shall hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Notice of and registration for the special examination shall be provided in the same manner as provided by subsection (2) of this section.
- (5) Examinations shall be given and graded in accordance with rules of the department published at the time of the examination. Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the Department of Revenue to each person passing the examination.
- (6) Examination records shall be preserved by the department for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the Department of Revenue in Frankfort, Kentucky.

Before entering office, all elected property valuation administrators must be bonded:

**132.400 Bond of property valuation administrator.**

Before entering upon the duties of office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of the office with a surety to be approved by the Department of Revenue. In counties containing a city of the first class, the bond shall be in the sum of one hundred thousand dollars (\$100,000); in counties containing a city of the second class, fifty thousand dollars (\$50,000); in all other counties, twenty thousand dollars (\$20,000).

Although the property valuation administrator is a state officer elected to serve one county, the county fiscal court is required to provide adequate office space.

**132.410 Office facilities for property valuation administrator - Records - Working hours.**

- (1) The fiscal court of each county shall provide for the property valuation administrator suitable office room or rooms in the county courthouse, or when that is not practicable, in some other building at the county seat, together with suitable furniture. In that office shall be safely kept the books, maps, taxpayers' lists, papers and all other records pertaining to the assessment of property within the county, except

when such records are required by law to be placed in the custody of other officers.

- (2) The property valuation administrator shall engage in official duties at least five (5) days a week during regular working hours and shall keep scheduled office hours at least five (5) days each week.

The general statutory duties of the PVA are described in KRS 132.420 and 132.620:

**132.420 Duties and powers of property valuation administrator.**

- (1) The property valuation administrator shall, subject to the direction, instruction and supervision of the Department of Revenue, make the assessment of all property in his county except as otherwise provided, prepare property assessment records, and have such other powers and duties relating to assessment as may be prescribed by law or by the department.

**132.620 Recovery of compensation or costs from property valuation administrator for unauthorized assessment or neglect of duty - Procedure - Appeal.**

- (1) The Department of Revenue shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, Kentucky board of tax appeals, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The Department of Revenue shall notify the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the Kentucky board of tax appeals, and an appeal may be taken from the final action of the Kentucky board of tax appeals to the courts as provided by law.
- (2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

Each PVA is provided with a statutory expense allowance of \$3,600 annually. This statute also

provides mandatory training and education for all PVAs and ties the continued receipt of the expense allowance to the completion of the educational requirements. Training incentives for PVAs were also part of legislation enacted by the 2000 General Assembly (see KRS 132.590 (3)(c), in section F).

**132.597 Expense allowance for property valuation administrators who meet stipulated requirements - Annual professional instruction.**

- (1) The property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars (\$3,600) to be paid from the state treasury in monthly installments of three hundred dollars (\$300). Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.
- (2) The expense allowance provided in subsection (1) of this section shall be used by the property valuation administrator for expenses incurred in the performance of his duties. The allowance is to provide the necessary funds for payment of all expenditures of the property valuation administrator not directly associated with the assessment of property in his particular county.
- (3) Each property valuation administrator shall annually, within each calendar year, participate in a minimum of thirty (30) classroom hours of professional instruction conducted or approved by the Department of Revenue. Any property valuation administrator failing to meet the department's requirements for any calendar year shall not receive the three thousand six hundred dollars (\$3,600) annual expense allowance provided in subsection (1) of this section for the subsequent calendar year.
- (4) The annual requirement for participation in classroom instruction shall be reduced to fifteen (15) hours for any property valuation administrator awarded the "Senior Kentucky Assessor" (SKA) professional designation under the provisions of KRS 132.385.

F. Funding and Personnel Administration

The funding of the Department of Revenue is done in the same manner as all other agencies of the executive branch, that is, a biennial budget is set by the legislature during the regular session. The property tax activities of the county attorney, sheriff, and county clerk are funded by commissions and fees received from collections. The funding of the PVA office is provided from three sources: state, county, and city.

State and county funding, as well as PVA staffing and salaries, are covered in KRS 132.590:

**KRS 132.590 Compensation of administrator - Salary schedule - Salary adjustments - Advancement in grade - Biennial budget - Allowance for deputies - Payments by fiscal court.**

- (1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the Department of Revenue annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.
- (2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the department shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the department increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the Department of Revenue the total number of years,

not to exceed four (4) years, that the person has previously served in the office. The department shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

### SALARY SCHEDULE

County Population by Group Valuation	Steps and Salary for Property Administrators
---	---

	Step 1	Step 2	Step 3	Step 4
Group I 0-4,999	\$45,387	\$46,762	\$48,137	\$49,513
Group II 5,000-9,999	49,513	50,888	52,263	53,639
Group III 10,000-19,999	53,639	55,014	56,389	57,765
Group IV 20,000-29,999	55,702	57,765	59,828	61,891
Group V 30,000-44,999	59,828	61,891	63,954	66,017
Group VI 45,000-59,999	61,891	64,641	67,392	70,143
Group VII 60,000-89,999	66,017	68,768	71,518	74,269
Group VIII 90,000-499,999	68,080	71,518	74,957	78,395
Group IX 500,000 and up	72,206	75,644	79,083	82,521

- (3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.
- (b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.
- (c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents (\$687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the commissioner of the Kentucky Department of Revenue, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per



calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments described in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Department of Revenue. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

- (4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.
- (5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The Department of Revenue may make grade classification changes corresponding to any approved for department employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the department may extend cost-of-living increases approved for department employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.
- (6) Beginning with the 1990-92 biennium, the Department of Revenue shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee . . . However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full time deputies.
- (7) Beginning with the 1990-92 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Department of Revenue a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be

expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Department of Revenue shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

- (8) Each property valuation administrator may appoint any persons approved by the Department of Revenue to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Department of Revenue and shall be subject to the approval of the Department of Revenue. The Personnel Cabinet shall provide advice and technical assistance to the Department of Revenue in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Department of Revenue in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted . .

..

- (9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:

At Least	But Less Than	Amount
--	\$100,000,000	\$.005 for each \$100 of the first \$50,000,000 and \$.002 for each \$100 over \$50,000,000.
\$100,000,000	\$150,000,000	\$.004 for each \$100 of the first \$100,000,000 and \$.002 for each \$100 over \$100,000,000.
\$150,000,000	\$300,000,000	\$.004 for each \$100 of the first \$150,000,000 and \$.003 for each \$100 over \$150,000,000.
\$300,000,000	--	\$.004 for each \$100.

- (10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:

<u>At Least</u>	<u>But Less Than</u>	<u>Limit</u>
--	\$ 700,000,000	\$ 25,000
\$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	--	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

- (11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Department of Revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.
- (12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1 and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

- (13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts by the provisions of this section, shall be exercised by the urban-county government or consolidated local government.

City funding is covered in KRS 132.285:

**132.285(1)(3) Use by city of county assessment allowance for costs - City's power in adapting procedures to county assessment.**

- (1) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city. Any city making such election shall notify the Department of Revenue and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date. Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent (\$0.005) for each one hundred dollars (\$100) of assessment; provided, that sums paid shall not be less than two hundred fifty dollars (\$250), nor more than forty thousand dollars (\$40,000) in a city having an assessment subject to city tax of less than two billion dollars (\$2,000,000,000) or fifty thousand dollars (\$50,000) in a city having an assessment subject to city tax of more than two billion dollars (\$2,000,000,000). This allowance shall be based on the assessment as of the previous January 1. Each property valuation administrator shall file a claim with the city for the county assessment, ... Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within such city by additional payment of the cost thereof. Once any city elects to use the county assessment, such action cannot be revoked without notice to the Department of Revenue and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.
- (3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).

The fiscal management of the PVA office is described in KRS 132.601 and 132.605:

**132.601 Administrator's use of local funds accruing to office - Bank account - Expenditures - Supervision.**

- (1) The property valuation administrator of any county may, after receiving an approved budget from the Department of Revenue under the provisions of KRS 132.590, obligate and spend any of the local funds accruing to his office under the provisions of KRS 132.590 or KRS 132.285, over and above that actually used in compensating his deputies and assistants, for the purchase of any maps, lists, charts, materials, supplies or equipment, or for other expenses necessary to the proper assessment of property or preparation and maintenance of assessment rolls and records.
- (2) The property valuation administrator shall maintain a bank account for the management of local funds received by his office under the provisions of KRS 132.590 and 132.285. Beginning with the 1990-1992 biennium, at the end of each fiscal year a cumulative carryover of local funds equivalent to the total annual local appropriation for the ending fiscal year or five thousand dollars (\$5,000), whichever is greater, shall be retained. Any funds in excess of this amount shall be refunded by the property valuation administrator no later than August 1 to the appropriating local governments in direct proportion to their respective appropriations.
- (3) Expenditures made by the office of the property valuation administrator under the provisions of subsection (1) of this section shall be governed by procurement procedures adopted by the fiscal court in the county administrative code required by KRS 68.005. However, after approval of the annual budget for the office of the property valuation administrator provided in KRS 132.590 by the Department of Revenue, the necessity of the expenditure shall not be questioned by the fiscal court. The Department of Revenue shall have neither authority nor responsibility in the auditing of expenditures made by the property valuation administrator from locally appropriated funds. The auditor of public accounts shall assume the responsibility.

**132.605(1) Purchase of assessment supplies and equipment by county - Purchase and loan by Department of Revenue.**

- (1) The fiscal court of each county shall have jurisdiction and the power to purchase and supply to the property valuation administrator any maps, lists, charts, materials, supplies, equipment or instruments which are reasonably necessary for a complete and accurate assessment of property in the county. The Department of Revenue is authorized to purchase and loan any property valuation administrator such maps, lists, charts, materials, supplies, equipment or instruments as are

urgently needed by any property valuation administrator, provided that the Department of Revenue keeps a record thereof.